

## MRS. ANNA RUNNEBAUM

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NOVEMBER 1 (legislative day, OCTOBER 25), 1943.—Ordered to be printed

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Mr. ELLENDER, from the Committee on Claims, submitted the following

## REPORT

[To accompany S. 949]

The Committee on Claims, to whom was referred the bill (S. 949) for the relief of Mrs. Anna Runnebaum, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

Page 1, line 5, strike out the figures "\$5,000" and insert in lieu thereof the figures "\$4,000".

The purpose of the proposed legislation is to pay to Mrs. Anna Runnebaum, of Axtell, Kans., the sum of \$4,000, in full settlement of all claims against the United States for the death of her son, Ralph Joseph Runnebaum, who was killed in an automobile accident while in the employ of the Civilian Conservation Corps.

## STATEMENT OF FACTS

The accident occurred on October 12, 1941, when one of the boys employed at the National Youth Administration, Mechanical Training Section, Wabaunsee Lake, near Eskridge, Kans., duly authorized, was driving five youths in a Government-owned truck back to camp after an evening in Eskridge. The truck went off the road on a curve, and all of the occupants of the truck were injured. Ralph Runnebaum sustained a broken back, as a result of which he died on October 17, 1941. From the time of the accident until his death, he was at St. Francis Hospital, Topeka, Kans., where medical treatment and aid were given to him at the direction of the director of the National Youth Administration camp at which he was enrolled.

It is stated in the report of the United States Employees' Compensation Commission, dated May 18, 1943, that it "appears from the evidence submitted to the Commission that it was customary at the resident center to permit the employees to go to town on Sunday and holidays in a Government-owned truck." However, after carefully

considering the evidence the Commission found that the fatal injury to Ralph Runnebaum was not sustained "while in the performance of duty" and that the benefits of the Compensation Act could not therefore be extended in this case. It is further stated that if the case had been found compensable, the maximum amount which could have been paid to the mother under the Compensation Act would have been \$1,920.

The Honorable Paul V. McNutt, Chairman of the War Manpower Commission, in his report sets forth the provisions of the National Youth Administration Appropriation Act for 1942, as amended, which, among other things, provides for hospitalization and medical care of youths employed under the provisions of the act and for disability or death resulting from traumatic injury while in the performance of duty. All expenses of hospitalization and medical care were paid by the Administration, but payment of funeral expenses was refused. Mr. McNutt further states:

\* \* \* The granting of relief, independent of any legal liability for compensation on the part of the Government, is, of course, entirely within the discretion of the Congress. However, I am of the opinion that the relief granted should not exceed the amount which would have been paid had the trainee been injured in line of duty. The act of February 15, 1934, as amended, \* \* \* provides that the aggregate compensation in any case for injury or death shall not exceed the sum of \$4,000, exclusive of medical costs.

In the judgment of your committee, the accident could have been avoided if the driver of the truck had been more cautious in driving around the curve, which contained loose gravel on the shoulder of the road, inasmuch as he had made several trips over that road the evening of the accident. It is also the belief of your committee that this boy (with the full knowledge and consent of the supervisor of the camp) was a passenger in the truck; that the accident occurred through no negligence on his part; and although he was not actually performing his duties, as defined by the act, he nevertheless was a trainee of the camp and that therefore his surviving parent is entitled to the compensation authorized under the act, to wit: \$4,000. Your committee have amended the bill accordingly and recommend that the bill, as amended, do pass.

Appended hereto is the report of the War Manpower Commission, together with other pertinent papers.

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UNITED STATES EMPLOYEES COMPENSATION COMMISSION,  
New York City, May 18, 1943.

CHAIRMAN, COMMITTEE ON CLAIMS,  
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the Commission's report on the bill, S. 949, "for the relief of Mrs. Anna Runnebaum." The bill provides:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, to Mrs. Anna Runnebaum, of Axtell, Kansas, in full settlement of all claims against the United States for the death of her son, Ralph Joseph Runnebaum, who was killed in an automobile accident while in the employ of the Civilian Conservation Corps: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a

misdemeanor and upon conviction thereof shall be fined in any amount not exceeding \$1,000."

It appears from the Commission's files that on October 12, 1941, Ralph J. Runnebaum, together with six other employees of the National Youth Administration, was returning to a resident center maintained by that administration at Lake Wabaunsee, near Eskridge, Kans., when the Government-owned truck in which they were riding ran into a ditch and overturned; that as a result of the accident Ralph J. Runnebaum sustained fatal injuries and the other employees sustained injuries from which they apparently recovered. Two of the employees were returning to the resident center from their homes, and four of the employees, including Mr. Runnebaum, were returning from leave in the town of Eskridge, Kans.

It appears from the evidence submitted to the Commission that it was customary at the resident center to permit the employees to go to town on Sunday and holidays in a Government-owned truck. On the day of this accident one of the supervisors at the resident center turned over the keys of the truck to one of the employees and they proceeded therein to Eskridge. The truck overturned while making a second return trip to the resident center at about 10:30 p. m. on Sunday, October 12, 1941.

After careful consideration of all the evidence on file in this case, the Commission found that the fatal injury to Mr. Runnebaum was not sustained "while in the performance of duty," and that the benefits of the Compensation Act could not therefore be extended in this case.

Under section 10 (E) and (G) of the Compensation Act, applicable to employees of the National Youth Administration, the total maximum amount of compensation that may be awarded to a parent who was wholly dependent for support upon the deceased employee at the time of his death is 25 per centum of the employee's monthly pay for a period of 8 years from the time of the death. It appears that Mr. Runnebaum's monthly pay, including the value of subsistence, amounted to \$30.

If the case had been found compensable, the maximum amount of compensation which could have been paid to Mrs. Anna Runnebaum, the employee's mother, under the Compensation Act would have been \$1,920. The direct grant proposed to be made in the bill is \$3,080 in excess of such maximum.

The bill, S. 949, if enacted, would apparently be a direct grant of \$5,000 to Mrs. Anna Runnebaum "in full settlement of all claims against the United States for the death of her son, Ralph Joseph Runnebaum, who was killed in an automobile accident while in the employ of the Civilian Conservation Corps," without imposing any duty upon the Commission in respect to this case.

In view of the foregoing, the Commission is constrained to recommend against the enactment of the bill S. 949.

This report has been submitted to the Bureau of the Budget pursuant to Budget Circular 390, dated June 1, 1942, and has been returned with the advice that there would be no objection to the submission of the adverse report to the committee.

Very truly yours,

(Mrs.) JEWELL W. SWOFFORD, *Chairman.*

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WAR MANPOWER COMMISSION,  
*Washington, D. C., September 23, 1943.*

HON. ALLEN J. ELLENDER,  
*Chairman, Committee on Claims,  
United States Senate, Washington, D. C.*

DEAR SENATOR ELLENDER: Reference is made to your request for a report of the facts in the case which is the subject of S. 949, "A bill for the relief of Mrs. Anna Runnebaum," together with an opinion on the merits of the bill. Your letter was addressed to me as Administrator of the Federal Security Administration for the reason that the deceased youth was believed to have been in the employ of the Civilian Conservation Corps at the time of his injury. However, the youth was an employee of the National Youth Administration, which is now under my supervision, and I am, therefore, pleased to submit the following report on the case.

The facts with respect to the accident out of which this claim arises are as follows: Ralph Joseph Runnebaum was a trainee at the National Youth Administration, Mechanical Training Section, Wabaunsee Lake, near Eskridge, Kans.,



during October 1941. On the evening of October 12, 1941, which was a Sunday, one of the youth employees was authorized by the supervisor in charge of the camp to use a Government-owned truck to take some of the boys to Eskridge for the evening, where most of them attended a movie. On the way back to camp, later in the evening, Ralph Runnebaum and four other youths were passengers in the truck. The truck went off the road on a curve, possibly due to loose gravel on the shoulder of the road, and all of the occupants of the truck were injured as a result of the accident. Ralph Runnebaum sustained a broken back, as a result of which he died on October 17, 1941. From the time of the accident until his death, he was at St. Francis Hospital, Topeka, Kans., where medical treatment and aid were given to him at the direction of the director of the National Youth Administration camp at which he was enrolled.

The National Youth Administration Appropriation Act for 1942 contained the following provisions for the benefit of National Youth Administration employees:

"PAR. 19. The provisions of the Act of February 15, 1934 (48 Stat. 351), as amended, relating to disability or death compensation and benefits, shall apply to persons receiving compensation from the appropriation in paragraph 1 for services rendered as employees of the United States: *Provided*, That this section shall not apply in any case coming within the purview of the workmen's compensation law of any State, Territory, or possession, or in which the claimant has received or is entitled to receive similar benefits for injury or death: *Provided further*, That for carrying out the purposes of this paragraph there shall be made available to the United States Employees' Compensation Commission from the appropriation in such paragraph 1 the sum of \$200,000, or so much thereof as such Commission, with the approval of the Bureau of the Budget, estimates and certifies to the Secretary of the Treasury will be necessary for such purposes.

"PAR. 20. The funds appropriated by paragraph 1 hereof shall be available for emergency hospitalization and medical care, other than that contemplated by paragraph 19 hereof, by reimbursement to Government hospitals or by contract with other public or private hospitals, in cases of critical illness or injury, of youths, employed under paragraph 1 (b) hereof, who are full-time residents of projects involving the maintenance of youths in camps or other resident work centers under the supervision of the National Youth Administration.

#### "YOUTH WORK DEFENSE PROGRAM (NATIONAL DEFENSE)

"Project expenses (national defense): To enable the National Youth Administration under the supervision and direction of the Federal Security Agency to provide employment for needy young persons between the ages of 17 and 24, inclusive, in resident and workshop projects which furnish work experience preparatory to employment in defense occupations, and which projects are determined to be adequate to provide such work experience, including the purchase of materials, equipment, supplies, and other expenses necessary for carrying on work on such projects, including the wages of youth employees in accordance with schedules established by the National Youth Administrator and approved by the Federal Security Administrator, and for those youths employed in resident projects, emergency hospitalization and medical care other than that contemplated by paragraph 19 hereof, which paragraph is hereby incorporated by reference, by reimbursement to Government hospitals or by contract with other public or private hospitals in cases of critical illness or injury of youths who are full-time residents at a project, \$56,972,000, of which \$100,000 shall be available for transfer to the United States Employees' Compensation Commission for the payment of disability or death compensation and benefits for injury or death arising from employment hereunder, as provided in said paragraph 19: *Provided*, That not more than 100,000 youths shall be employed at any one time under the program authorized herein."

The act of February 15, 1934 (48 Stat. 351), as amended, provides:

"That the provisions of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916 (U. S. C., title 5, sec. 785), as amended, are hereby extended, so far as they may be applicable, to employees of the Federal Civil Works Administration only for disability or death resulting from traumatic injury while in the performance of duty, subject, however, to the following conditions and limitations: \* \* \*"

No other provision was made by the Congress for payment of compensation to National Youth Administration trainees for injury or death benefits.

The appropriate claim forms were submitted to the United States Employees' Compensation Commission, by which the claim for benefits was rejected for the reason that the evidence submitted failed to show that death resulted from a personal injury sustained by Ralph Runnebaum while in the performance of his duty. All expenses of hospitalization and medical care were paid out of funds appropriated to the National Youth Administration in accordance with paragraph 20 of the National Youth Administration Appropriation Act for 1942. Payment of funeral expenses for the deceased was refused by the General Accounting Office as not being within the provisions of the appropriations act. The propriety of these rulings by appropriate administrative agencies is not a matter for comment or review by another administrative officer.

"The Congress having acted to provide compensation for accidental injuries to or death of National Youth Administration employees under certain circumstances, it must be presumed that the Congress intended to establish the outside limits of the liability to be assumed by the Government, independent of general principles of tort liability. Therefore, any relief granted in this case should be predicated upon some other factor than the employer-employee relationship which prevailed between the National Youth Administration and the deceased. However, S. 949, which would appropriate the sum of \$5,000 " \* \* \* in full settlement of all claims against the United States for the death of her son, Ralph Joseph Runnebaum, who was killed in an automobile accident while in the employ of Civilian Conservation Corps. \* \* \*" indicates no ground for relief other than the fact of Federal employment.

It is understood that the provision of compensation in special cases through the medium of private relief bills is intended, generally, to provide for the settlement of claims wherein liability of the Government under substantive rules of law is not enforceable because of the sovereign immunity to suit. It would not, of course, be contended that the Government is liable without fault for accidental injury to occupants of a Government-owned vehicle. As in the case of any other owner of a private vehicle, the Government is responsible only for personal injuries proximately caused by negligent acts which are imputable to the owner of the vehicle. According to the statement of the National Youth Administration supervisor at the camp, a copy of which is enclosed, the truck was in good repair. The statements of four of the youths who were passengers in the truck, copies of which are enclosed, contain no information upon which a finding of negligent operation of the truck could be based. Therefore, applying the test of liability under substantive rules of law, without regard to the employer-employee relationship which prevailed at the time of the accident, I cannot recommend that S. 949 be enacted.

The combination of circumstances that the young man was a National Youth Administration employee, and that he was injured while riding in a National Youth Administration truck, the use of which was authorized by the camp director for a recreational purpose which, while not an organized group recreational activity, was a normal incidence of residence at the camp, undoubtedly gives rise to misconception on the part of the public as to the obligations of the Government. In addition, it is urged on behalf of the claimant that the case is one of unusual hardship, due to the fact that the father of the young man died a few weeks after his son, leaving Mrs. Runnebaum with the care of two minor children and the responsibility of running a farm.

The Congress may decide that these are special considerations which override the possibility of establishing an undesirable precedent by granting the relief sought. The granting of relief, independent of any legal liability for compensation on the part of the Government, is, of course, entirely within the discretion of the Congress. However, I am of the opinion that the relief granted should not exceed the amount which would have been paid had the trainee been injured in line of duty. The act of February 15, 1934, as amended by the act of June 21, 1938 (52 Stat. 809-815), provides that the aggregate compensation in any case for injury or death shall not exceed the sum of \$4,000, exclusive of medical costs. The amount of allowable compensation for death is dependent upon relationship and dependency factors, and is determined in accordance with section 24.2 of Special Regulations Governing the Administration of the United States Employees' Compensation Act of September 7, 1916, as Amended and Extended to Emergency Relief Employees, Enrolled Personnel in the Civilian Conservation Corps, and Others. In view of these regulations, the amount of \$5,000 is, in my judgment, excessive.

Pursuant to your request I am enclosing herewith copies of documents contained in the National Youth Administration file which are material to the facts and a decision on the bill.

The Bureau of the Budget advises that there is no objection to the submission of this report to your committee.

Sincerely,

PAUL V. McNUTT, *Chairman.*

FEDERAL SECURITY AGENCY,  
NATIONAL YOUTH ADMINISTRATION FOR KANSAS,  
*Topeka, November 28, 1941.*

Mr. O. P. ALLEE,  
*State Procurement Officer,  
Topeka, Kans.*

DEAR MR. ALLEE: There is enclosed requisition No. 2481 on project 961-82-503-1 covering medical, hospital, ambulance, and funeral services for Ralph Runnebaum who died on October 17, 1941 as a result of an automobile accident near Eskridge, Kans., the night of October 12, 1941. Also enclosed are requisitions No. 2482 and 2483 on the same project to take care of hospitalization for Carl Miller and Charles Hurst, Jr., who were injured in the same accident.

These boys were all three assigned to project 961-82-503-1 at Lake Wabaunsee at the time of the accident. This is a full-time resident center and we believe authority for payment of the services is authorized under paragraph 20 of the 1942 National Youth Administration Appropriation Act (Public Law No. 146-77th Cong., 1st sess.). Let us explain the conditions under which the injuries occurred.

On the evening of October 12, 1941, six of the National Youth Administration boys, including the three mentioned above, were given permission by their supervisor, Carl Killion, to go to the neighboring town of Eskridge, about 4 miles away. They were given permission to use a Government-owned panel truck, a 1937 V-8 Ford. One of the boys drove.

On their return to camp at approximately 10:30 that night, the truck left the road at a turn about 1½ miles west of Eskridge. The vehicle was badly wrecked in overturning and hitting a tree and, while all the boys were hurt, only the three whose names we have given required hospitalization.

Dr. C. W. Walker, of Eskridge, was called for emergency treatment and he made the recommendation for hospitalization. See copy of his letter attached. At the Topeka hospital (St. Francis Hospital) Dr. G. F. Helwig took charge of the three cases and called in additional doctors and authorized the services as mentioned in his letter of October 21, 1941, a copy of which, also, is attached.

While CA-17's of the United States Employees' Compensation Commission were issued to Dr. C. W. Walker, these authorizations obligate only for initial examination and emergency treatment. The boys were not in official duty status—that is, they were not performing work for which they were being paid—and the Compensation Commission assumes no responsibility in such cases. This was cleared in a telephone conversation with our Washington office several days after the accident.

Under the circumstances surrounding the accident as narrated above, it is our opinion that payment should be made through the procurement office under authority of paragraph 20 of the 1942 act.

Sincerely yours,

ANNE LAUGHLIN,  
*State Youth Administrator.*

#### STATEMENT OF CHARLES H. WEST, JR.

I was instructed by Mr. Wise, the supervisor who stayed in charge of the camp the week end of October 12, 1941, to take the Ford panel into town. I got a master key from him about 6 p. m. and filled the truck with gas and oil.

At about 6:25 p. m. I drove the first load of boys to town. There were eight boys in the first load and seven in the second. Marold Green and I waited in the panel in front of the show building. While we were waiting, Ralph Runnebaum, and Raymond Honeyman came back to the truck and we talked until the show was over.

There were eight boys in the first load going back to camp. I returned for the second load which consisted of Raymond Honeyman, Ralph Runnebaum, Eugene Loyd, Carl Miller, Lawrence Winterschiedt and myself. During the time I was in town, I was not out of the truck except to open and close the rear door of the panel truck.

About a mile and a half from Eskridge, on the way back to camp, I took the outside of a curve and loose gravel on the shoulder of the road must have thrown us off the road. As soon as we left the road, the truck hit a post, then a tree and the truck tipped sideways and I fell out of the door when it jarred open. I saw a car coming down the road so Carl Miller and I flagged down this car, then I went back to the panel to see who was hurt. I found Eugene Loyd on the side of the truck and he asked me where he was cut so I helped him down off the truck and I took him in front of the headlights of the car that we had stopped. Loyd was bleeding badly so I asked the driver of the car to take him into Eskridge to the doctor. I then returned to the truck and Ralph Runnebaum told me that he thought his back was broken. Raymond Honeyman then asked me if I had turned the car switch off and I told him "No." I started to get up to turn it off but fell back down so Raymond Honeyman said that he would do it. He told me he thought my nose was broken. My shoulder was starting to hurt by this time. Some fellow from town picked me up and put me in the back seat of his car. We waited until an ambulance came and picked up Ralph Runnebaum.

The next thing I remember was when the doctor put my nose back in place and I was in the hospital.

DECEMBER 18, 1941.

CHARLES H. WEST, JR.





